IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 968 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANIBEN WD/O SARDARJI JAWAJI

Versus

BHIKIBEN KOLI

Appearance:

MR MEHUL H RATHOD for Petitioner No. 1-5

MR AD OZA for Respondent No. 1-11

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 19/09/2002

ORAL JUDGEMENT

Heard Mr. A.J. Patel with Mr. Mehul Rathod, ld. advocates appearing for the applicant-revisionists and Mr. Dipak R. Dave, ld. advocate appearing for the respondents.

2. The present Civil Revision Application is filed against the order dated 29th May 1999 passed by the 2nd

Extra Assistant Judge, Palanpur, in Civil Misc. Appeal No. 51 of 1999 confirming the order dated 27th April, 1999 passed by the ld. Civil Judge (JD), Deesa below application Exh. 5 in Regular Civil Suit No. 63 of 1998. By the said order dated 27th April 1999 the ld. Civil Judge (JD), Deesa has partly allowed the application below Exh. 5 granting injunction against the defendants in respect of 1/4th portion of the land bearing Survey Nos. 202 and 203 situated on western side of the said land at Village Rajpur. The said order has been confirmed in appeal by the ld. 2nd Extra Assistant Judge, Palanpur. It is these two orders which are under challenge in the present petition.

3. During the course of hearing of the present petition, three affidavits dated 16.9.2002 are filed by the applicants No. 1, 4 and 5 who are also present in the Court today, seeking withdrawal of the present Civil Revision Application as well as the Regular Civil Suit No. 63 of 1998 The same are taken on record of this petition. It is submitted before me that there appears to be four parts of disputed land. As far as the applicants are concerned, the courts below had granted the protection with regard to their 1/4th share of the land in question and the respondents were restrained from entering into the said portion of the land. As far as the respondents are concerned it is their case that they are the owners of and are entitled to 1/4th share of the land in question.

4. The impugned orders are being interim orders, this Court is of the view that considering the amended provisions of Sec. 115 of the Civil Procedure Code, the present Civil Revision Application is not maintainable. This court has therefore not gone into the merits of the matter. Even otherwise three of the five petitioners are seeking withdrawal of the petition. Mr. A.J. Patel, the learned Advocate appearing for the petitioners therefore seeks permission to withdraw the present Revision Application with a direction to the trial Court to dispose of the suit as expeditiously as possible, preferably within the period of six months from the date of receipt of the writ from this court or certified copy of this order, whichever is earlier, and during the pendency of the said suit limited protection may be given to the parties and they may not sell, transfer, alienate or create and charge, encumbrance or third party right in their respective 1/4th share in the disputed suit land.

5. Accordingly, the present Civil Revision Application is disposed of as having been withdrawn with

a direction to the trial court to dispose of the suit as expeditiously as possible preferably within the period of six months from the date of receipt of the writ from this Court or the certified copy of this order whichever is earlier and during this period the protection is granted to the present applicants as well as the respondents with respect to their 1/4th shares in the property in question. It is further clarified that the present applicants as well as the respondents shall not sell, transfer, alienate or create any charge, encumbrance or third party right in respect of the property in question till the suit is finally disposed of by the trial Court.

6. With the above observations, the Civil Revision Application is disposed of as having been withdrawn. Rule is discharged with no order as to costs.

rmr. [K.A. Puj, J.]